

AMENDED IN ASSEMBLY APRIL 22, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 320**

**Introduced by Assembly Member Correa**

February 7, 2003

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An act to add Section 143.5 to the Business and Professions Code, relating to professions and vocations.

### LEGISLATIVE COUNSEL'S DIGEST

AB 320, as amended, Correa. Professions and vocations: licensees: settlement agreements.

Existing law provides that it is a cause for suspension, disbarment, or other discipline for an attorney to agree or seek agreement that the professional misconduct or the terms of a settlement of a claim for professional misconduct is not to be reported to the professional's disciplinary agency, or to agree or seek agreement that the plaintiff shall withdraw a disciplinary complaint or not cooperate with an investigation or prosecution conducted by the disciplinary agency. These provisions apply to an attorney who is a party or who is acting as an attorney for a party.

This bill would prohibit a licensee of a profession or vocation regulated by the Department of Consumer Affairs or various boards, *bureaus, or programs* from including, *or permitting to be included*, a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department-~~or~~, board, *bureau, or programs* or that

requires the other party to withdraw a complaint from the department  
~~or, board, bureau, or programs.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 143.5 is added to the Business and  
2 Professions Code, to read:

3 143.5. (a) A licensee of a profession or vocation ~~subject to~~  
4 ~~the oversight of regulated by a board, bureau, or program within~~  
5 ~~the Department of Consumer Affairs or one of the boards~~  
6 ~~established pursuant to Division 2 (commencing with Section~~  
7 ~~500), Division 3 (commencing with Section 5000), or Division 4~~  
8 ~~(commencing with Section 10000) shall not include or permit to~~  
9 ~~be included a provision in an agreement to settle a civil dispute,~~  
10 ~~whether the agreement is made before or after the commencement~~  
11 ~~of a civil action, that prohibits the other party in that dispute from~~  
12 ~~contacting, filing a complaint with, or cooperating with the~~  
13 ~~department or, board, bureau, or programs or that requires the~~  
14 ~~other party to withdraw a complaint from the department or,~~  
15 ~~board, bureau, or programs. A provision of that nature is void as~~  
16 ~~against public policy.~~

17 (b) ~~An attorney who includes a provision described in~~  
18 ~~subdivision (a) in a settlement agreement subject to this section~~  
19 ~~shall be subject to disciplinary action by the State Bar of California~~  
20 ~~as provided for matters involving settlement of claims for~~  
21 ~~professional misconduct in Section 6090.5.~~

22 (c) ~~As used in this section, “board” shall have the same~~  
23 ~~meaning as defined in Section 22, and “licensee” means a person~~  
24 ~~that has been granted a license, as that term is defined in Section~~  
25 ~~23.7.~~